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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,764	09/08/2003	Brent D. Carnahan		3960

7590 04/18/2005
Brent D. Carnahan
1625 Arcata Dr
Redlands, CA 92374

EXAMINER

WATSON, ROBERT C

ART UNIT PAPER NUMBER

3723

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/657,764	CARNAHAN, BRENT D.	
	Examiner	Art Unit	
	Robert C. Watson	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 and 18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-13, 17, and 19-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/8/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicants 4/10/05 communication states that claims 1-8 read on the elected species of Figures 1-2. This is deemed to be incorrect. Claim 8 does not read on the elected species of Figures 1-2 since the species of Figures 1-2 has no telescoping raising lever shown. It is the examiner's position that claims 1-7, 11-17, and 19-20 read on the elected species of Figures 1-2.

Since the prior art cited by applicant on form POL-1449 has no date it cannot be considered to be prior art. Accordingly, the prior art cited on form POL-1449 has been lined out by the examiner.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not understood what is meant by the vertical arc being "approximate". The claim is vague and indefinite.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Garelick.

Garelick shows a stand having a base member, a raising lever, and wheels. No patentable weight is given to statements of intended use such as the type of object being engaged by the stand. However, in any case, the Garelick stand is considered to be capable of engaging and holding a motorcycle.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick.

In Garelick the vertical arc between the base member and the raising lever is approximately 90 degrees. Any slight deviation therefrom is no more than an obvious matter of design choice absent a showing of criticality for this feature. It is the examiner's position that no new and unexpected results would be found by substituting an 89 degree angle for the Garelick 90 degree angle.

Claims 2, 4, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Larson.

Larson teaches the use of a non-slip pad 9 attached to the upper portion of the base member. Larson further teaches in Figure 2 that the base may be comprised of first and second vertical base members and upper and lower horizontal base members.

To attach a non-slip pad to the upper portion of the base member in Garelick would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Larson. One of ordinary skill in the art would have been motivated to do this in order to prevent the object being held by the stand from slipping relative to the stand. To further provide in Garelick first and second vertical base members and upper and lower horizontal base members would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of

Art Unit: 3723

Larson. One of ordinary skill in the art would have been motivated to do this in order to provide a stronger base.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Tischendorf.

Tischendorf teaches the use of dog ears 80,82 on a base member.

To provide dog ears on the Garelick base member would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Tischendorf. One of ordinary skill in the art would have been motivated to do this in order to prevent the object being held by the stand from laterally falling off the stand.

Claims 5 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Janisse.

Janisse teaches that a stand may support a tray.

To provide a tray for the stand of Garelick would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Janisse. One of ordinary skill in the art would have been motivated to do this in order to enable the stand to support tools to be used for the repair of the object being held by the stand.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Janisse supra and further in view of Rush.

Rush teaches that a stand may be mounted for pivotal movement.

To enable the above applied Garelick in view of Janisse stand tray to pivot would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Rush. One of ordinary skill in the art would have been

motivated to do this in order to enable the tray to be positioned at a convenient angle for the user.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Butts.

Butts teaches the use of a lever stop 14 on a lever. Since this stop is pointed it may properly be termed a lever stop skid.

To provide in Garelick a lever stop that has a lever stop skid would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Butts. One of ordinary skill in the art would have been motivated to do this in order to stably support the stand on the ground and prevent the stand from slipping relative to the ground.

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garelick in view of Neilson.

Neilson teaches that the tubular material may be stainless steel metal.

To make the tubular material in Garelick from stainless steel metal would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Neilson. One of ordinary skill in the art would have been motivated to do this in order to provide strength for the stand.

Claims 14-16 are allowed.

Claims 8-10 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/10/05.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 703 308-1747. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 703 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw



**ROBERT C. WATSON
PRIMARY EXAMINER**